Securities & Regulatory Enforcement

With proven results as lead trial and enforcement counsel, Stradley Ronon's client solutions often influence the financial services-related regulatory landscape that we see today. Our formidable advocacy in federal courts across the nation and before the U.S. Securities and Exchange Commission (SEC) and other regulatory bodies includes successfully challenging agency rulemaking, representing clients during regulatory investigations, and defending them in litigated enforcement actions. Our bench runs deep with lawyers uniquely qualified to handle common to cutting-edge enforcement investigations and litigation for our clients, as well as to assist them with challenging examinations and complex internal investigations aimed at heading off enforcement action.

Our Approach

Our sophisticated clients — from asset managers, broker-dealers, registered and private funds, public companies, officers, directors, principals and auditors — receive seamless legal services across our securities and regulatory enforcement team and specific industry know-how from our deep bench of dedicated investment management, broker-dealer and other financial services lawyers.

Our securities and regulatory enforcement team brings an informed, common-sense approach to any enforcement matter. Many of our lawyers have served in key roles at the SEC, U.S. Department of Justice (DOJ) and Commodity Futures Trading Commission (CFTC), where they gained firsthand knowledge of the regulators' examination and enforcement programs. Our broad understanding of and experience representing clients in the financial services industry provides us with the unique ability to offer clients a multidisciplinary, customized team approach when confronting a complex internal investigation, regulatory examination, investigation or enforcement action.

When confronted with an enforcement matter, we harness our seasoned enforcement lawyers and trial counsel and draw on our firm's deep subject-matter knowledge to provide our clients with the best opportunity to achieve a reasonable resolution while placing them in a formidable position to litigate when necessary.

Our Services

Our securities and regulatory enforcement lawyers counsel and defend clients in matters before the SEC, DOJ, CFTC, federal banking agencies, Financial Industry Regulatory Authority (FINRA) and other self-regulatory organizations (SROs) and state regulators. We assist clients with routine and targeted examinations and represent them in federal and state courts and administrative tribunals across the United States.

Our clients include global financial institutions, investment advisers and other asset managers, broker-dealers, public companies, banks and auditors, along with their executives, board members and other personnel. We also represent regional firms, startups, local ventures and individuals. Our team has routinely defended against a myriad of alleged violations involving the major provisions of the federal and state securities laws.

Specifically, we handle:

- SEC, DOJ, CFTC, federal banking agency, SRO and state enforcement investigations.
- White papers, Wells submissions and other presentations to regulators.
- Federal district court and administrative proceedings and circuit court appeals.
- Whistleblower-initiated and other internal reviews, including independent investigations.
- Regulatory examinations and deficiency letter responses.
- Third-party witness representation and subpoena responses.

Representative Matters

- Secured the dismissal of all charges brought against two mutual fund independent trustees by the SEC in the first enforcement action brought pursuant to Rule 22e-4 (the Liquidity Rule) of the Investment Company Act of 1940, a critical win for the asset management industry.
- Represented investment advisers and their personnel in SEC investigations involving cross-trades, valuation, the use of algorithmic advisory functions, the Investment Company Act Custody Rule, 12b-1 fees, performance advertising and collateralized fund obligations.
- Represented a mutual fund portfolio manager in an SEC investigation concerning cross-trading.
- Represented a principal of a cryptocurrency hedge fund in a DOJ criminal investigation, as well as in a parallel SEC investigation and a congressional inquiry, and a celebrity individual in an SEC investigation involving an initial coin offering.
- Represented a broker-dealer in an SEC investigation involving Regulation Best Interest.
- Represented a public company senior executive in an SEC financial fraud investigation.
- Represented an investment adviser and CEO in an SEC investigation involving principal trading.
- Represented a mutual fund adviser and chief compliance officer in an SEC investigation concerning investment limitations and trade errors.
- Represented a closed-end fund audit firm in an SEC investigation involving client fraud and auditing standards.
- On behalf of public company board audit committees, conducted independent investigations of, and reported to federal regulators regarding, financial and accounting fraud.

Experience

Secures SEC Dismissal in First-Ever Liquidity Rule Enforcement Action
The U.S. Securities and Exchange Commission (SEC) voluntarily dismissed charges with prejudice against two mutual fund independent trustees in the agency's first enforcement action brought pursuant to the Liquidity Rule (Rule 22e-4) promulgated under the Investment Company Act of 1940 (the Act). The case was filed in the U.S. District Court for the Northern District of New York against registered investment adviser Pinnacle Advisors, two of its officers and two independent trustees of a mutual fund that Pinnacle advised. The SEC alleged that the independent trustees aided and abetted the mutual fund's purported misclassification of illiquid securities in violation of the Liquidity Rule.

Stradley Ronon argued on behalf of the independent trustees that the SEC had no legal basis for its aiding and abetting charges as the independent trustees did not write, review, or even see the liquidity classifications that formed the basis for those charges, did not substantially assist the alleged violation, and otherwise complied with all of their obligations pursuant to the Liquidity Rule. Stradley Ronon further argued that the agency lacked the necessary congressional authority pursuant to the Act to promulgate the Liquidity Rule.

The challenge to the agency's authority to promulgate the Liquidity Rule led the Court to order additional briefing to address the framework for interpreting federal statutes established by the U.S. Supreme Court's decision in *Loper Bright Enterprises v. Raimondo.* Stradley Ronon re-filed its motion to dismiss all charges on April 28 arguing that the plain text of the statute did not grant rulemaking authority related to fund liquidity and resubmitted its arguments challenging the SEC's failure to state a claim for aiding and abetting liability against the independent trustees. Following the briefing, the SEC agreed to dismiss all charges against the independent trustees with prejudice, meaning that the SEC cannot refile the charges.

"We are very pleased that the court took the merits of our arguments seriously and that the SEC responded by dismissing the complaint," said the NYSA Fund independent trustees. "We always believed in the strength of our case and are grateful for our lead attorney Jan Folena and Stradley Ronon's guidance, knowledge, and litigation capabilities that made this outcome possible."

Lead trial counsel Jan Folena was assisted by Eric Porter, Samantha Kats, Sara Crovitz, Dave Grim, and Eric Purple.